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C O N F I D E N T I A L SECTION 01 OF 03 SARAJEVO 001862

SIPDIS

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(ALEXANDRE)

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SUBJECT: BOSNIA: DODIK CROSSES THE LINE WITH ATTACK AGAINST
THE STATE COURT'S "MUSLIMS"

REF: A) SARAJEVO 1803 B) SARAJEVO 1789 C) SARAJEVO
1795 D) SARAJEVO 1738 AND PRIOR

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Classified By: MICHAEL J. MURPHY FOR REASONS 1.4 (B) AND (D)

11. (C) SUMMARY: The conflict between Republika Srpska Prime Minister Milorad Dodik, his government, and state-level judicial institutions over the State Prosecutor's preliminary investigation into corruption in the RS rose to new heights the week of December 8. Dodik, whose government has been on the offensive following the State Court's refusal of the RS appeal of a temporary seizure order obliging it to hand over documents to the State Prosecutor's Office, created a firestorm with inflammatory comments that "Muslim" judges at the State Court have no right to adjudicate cases involving the RS government. These comments received extensive press coverage in the Federation and provoked swift, unequivocal criticism from us and HighRep Lajcak. Meanwhile, contacts at the State Prosecutor's Office told us that they are still reviewing the documents submitted by the RS, and that based on their review of these documents, they may have to seek another temporary seizure order from the State Court for new documents. END SUMMARY.

The RS on the Offensive

12. (C) The RS government has been on the offensive following the State Court's decision the week of December 1 to reject its appeal of a temporary seizure order that obliged the RS to hand over documents the State Prosecutor's Office needs for its preliminary investigation into corruption in the RS (Refs A and B). This offensive began with a private message delivered to us by Seljko Mirjanovic, the Caucus Chief of Dodik's party, Alliance of Social Democrats (SNSD), in the RS National Assembly, during a December 8 meeting. Mirjanovic pointed out that the consensus view in the RS was that the State Prosecutor's preliminary investigation was politically-motivated. In a new twist, he justified halting the investigation on the grounds that it was an obstacle to Dodik's attempts to advance Bosnia's integration into the EU and reduce the animosity Serbs harbor towards the U.S. and the EU. Mirjanovic repeatedly implied that there would be "consequences" if the State Prosecutor's investigation continued, but did not elaborate on what those consequences

could be. It was important that the international community not "create more animosity" and that it "choose the lesser of two evils," Mirjanovic said.

Debate over the U.S. Law Firm

¶3. (C) During a December 10 lunch with us, Zoran Korac, Dodik's close friend and unofficial advisor, maintained that Dodik was innocent of any crimes. He argued that Dodik had the right to hire any law firm he wished, and that that there is no law in Bosnia that prevented Dodik from hiring a foreign firm from representing him in legal matters, domestic or otherwise. Separately, the RS Bar Association publicly challenged Korac's assertions. On December 11, the RS Bar Association questioned the legality of having the U.S. law firm retained by the RS government, Dewey and LeBouef, represent the RS government before any court in the RS or any state court on matters related to the State Prosecutor's investigation (Ref D) because it was not registered in the RS or Federation. The daily Dnevni Avaz on December 11 published the statements of the RS Bar Association President Jovan Cizmovic, and reported that, according to the information published by the RS government, the law firm may have been paid up to approximately 3.4 million USD for its services.

RS Justice Minister Selman on the Drumbeat

¶4. (U) On December 9, Fokus, the RS-based daily with a strong Serb-nationalist editorial line, published statements by the vocal RS Justice Minister and Dodik ally Dzerard Selman in defense of the RS government's position. Minister

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Selman insisted that the State Court's rejection of the RS government's appeal was groundless, repeating the RS assertion that the State does not have jurisdiction in the investigation because it involved alleged violations of the RS Criminal Code. Minister Selman also suggested that the State Court had reached a speedy decision because it was prejudiced against the RS. Minister Selman claimed that, though the RS had to comply with the State Court's temporary seizure order, the RS had nonetheless scored a victory because representatives from his Ministry had been invited to the State Prosecutor's Office for the opening of the documents.

Dodik Crosses the Line

¶5. (SBU) On December 10, PM Dodik created an uproar by making inflammatory comments about State Court judges during a press conference in Banja Luka and in a separate Vecernji List interview on December 11. Dodik said that it was "unacceptable for Republika Srpska to be judged by Muslim judges, and for them to reject an appeal which is legally grounded." Dodik then laid out a litany of complaints related to the corruption investigation. He accused the State Prosecutor's Office of acting illegally and of joining those who want to "paint a negative picture of the RS to the rest of Europe." He echoed Minister Selman's concerns about the speed with which the State Court had rejected the RS government's appeal. He alleged that two unnamed embassies had interfered in the State Prosecutor's preliminary investigation and criticized the role of foreign judges and prosecutors in the case. According to Dodik, these foreigners should not remain on the case since his government had filed complaints against them with the High Judicial and Prosecutorial Council (HJPC). (Note: We assume Dodik meant the Slovene Prosecutor who is leading the preliminary investigation. We have no information about complaints the RS government may have filed with the HJPC's Office of Disciplinary Counsel. End Note) Finally, Dodik suggested that the RS is being attacked because it is making greater

progress than the Federation.

And Creates a Firestorm

¶16. (U) Dodik's comments about "Muslim" judges at the State Court received little coverage in the RS media but grabbed headlines in the Federation and prompted strong responses from HighRep Lajcak and from us. HighRep Lajcak stated that Dodik's comments about Bosniaks appeared chauvinistic and had no place in Bosnia. The comments are an attempt to interfere in the judicial process, an act, which, in a democratic country, is taboo, Lajcak said. In a normally functioning democracy, statements such as Dodik's would destroy a politician's career, Lajcak observed. We also issued a press release in which we stated the following, "We are deeply disturbed by the remarks made by PM Dodik. There is no place for ethnic or religious politics in the administration of justice. The USG rejects any effort to introduce it. We similarly reject political interference of any kind in the administration of justice."

Dodik Apologizes (Sort of)

¶17. (U) The following day (December 12), Dodik responded publicly to our and HighRep Lajcak's criticism. Dodik maintained that he was not trying to make "Bosniaks feel uncomfortable" because he is "not that type of person." Dodik argued that he was "just defending the right of the RS to respect the laws of this country" and asserted that his statement had been "taken out of context...I apologize to all those who, maybe, understood it the wrong way." Dodik said he did not want to apologize to those who intentionally "misused" his statement, however. Dodik also argued that "there are some judges who are ready to violate the laws of BiH under pressure of certain embassies in BiH and international structures." Finally, Dodik's "apology" included an assertion that the State Court had been created unconstitutionally, and that its Bosniak judges were biased

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against the RS.

The Latest on the Investigation, the RS Complaint

¶18. (C) In the meantime, the State Prosecutor's Office is reviewing documents the RS government handed over to the State Investigation and Protection Agency on November 26. Our contacts at the office told us that the process will take a few weeks and that, based upon a review of these documents, it is likely that the office will need to submit another request for a temporary seizure order from the State Court for new documents. Our contacts also pointed out that they are still waiting for the RS to hand over some missing documents. They also discussed the RS government's actions against the State Prosecutor's Office against Acting Chief Prosecutor Milorad Barasin, Principal Deputy High Representative Raffi Gregorian, and seven others. They clarified that the RS government had filed a "criminal complaint" (and not a lawsuit) against the group and that the head of the General Crimes Division (Jadranka Lokmic-Misiraca) will determine whether there was probable cause to initiate an investigation against those named in the complaint, including Barasin, her superior (Ref A).

Comment

¶19. (C) Dodik has been dogged by allegations of corruption for months, including from several international and local NGOs, such as Transparency International. The Serb Democratic Party (SDS) made this a theme of its municipal election campaign against Dodik, at one point, putting up posters that contained a photograph of the ostentatious new

RS government building next to a poorly equipped RS hospital.

We understand that it was these earlier allegations as well as the provision of some documents to state-level law enforcement institutions by individuals from the RS that prompted the State Prosecutor's Office to initiate the preliminary investigation. While Dodik's criticisms of the judiciary are not new, Dodik crossed the line with his ethnically-charged statements about judges at the State Court. They suggest the extent to which Dodik feels genuinely threatened by the ongoing preliminary investigation. This anxiety suggests that we should expect to see continued intensified rhetorical attacks on state-level judicial institutions (the State Court, State Prosecutor's Office, and the HJPC), attempts to intimidate judicial officials, and RS obstruction of the State Prosecutor's preliminary investigation at every step.

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